



# STATE MINING AND GEOLOGY BOARD

## DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

[www.conservation.ca.gov/smgb](http://www.conservation.ca.gov/smgb)

[smgb@conservation.ca.gov](mailto:smgb@conservation.ca.gov)

## CONFORMED MINUTES

### THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, October 13, 2011

10:00 A. M.

**DRAFT**

Assembly Hearing Room #444  
State Capitol  
Sacramento, California 95814

### AMENDED AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This

policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

Individuals are responsible for presenting their own projects at the meeting.

---

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

**I. Call to Order (Garner)**

**II. Pledge of Allegiance**

**III. Roll Call and Declaration of a Quorum**

The meeting was called to order at 10:50 A. M. by Chairman Garner, with Member Lund absent, and a quorum was declared.

**IV. Director's Report (Chernow, Department of Conservation) [Information]**

Derek Chernow, Acting Director, reported on the following:

- The National Association of Abandoned Mines Land Programs conference in Lake Tahoe was held on October 9-12 and jointly hosted by the State of Nevada and OMR.
- On behalf of OMR, the *Excellence in Reclamation Award* was presented to Vulcan Materials for their Rank Island Project at the CalCIMA Annual Education conference recently held in Monterey.
- A couple of weeks ago, the Department of Conservation held its Annual "All Staff" meeting. Although Stephen Testa could not attend and present on behalf of the SMGB, he did develop PowerPoint slides for the SMGB that we shared with staff.
- October 9 marked the final date for the Governor to sign or veto legislation, which includes SB 108 which pertains to idle mines.
- Last week, the Department's Division of Oil, Gas and Geothermal Resources (DOGGR) received a special recognition from the City of Goleta for our efforts in the re-abandonment of three oil wells in Santa Barbara County's tidelands. The wells were last abandoned between 1935-1941 and needed remediation.
- The Governor created within his office, a Tribal Affairs Advisor position. Our Office of Governmental and Environmental Relations is the liaison within the Department.

• **State Geologist's Report (Parrish) [Information]**

Chuck Real on behalf of the State Geologist and Director of the California Geological Survey (CGS), Dr. John Parrish, reported on the following:

- CGS had a successful booth at the National Association of Abandoned Mines Program put on by OMR.
- CGS has formed a policy committee to discuss tsunami hazards, and had their first meeting on October 12, 2011.
- Rick Wilson was invited to team up with USGS to do soil sampling from the deposits left behind from the tsunami.
- CGS will be at the upcoming Earth Science Teachers Annual Meeting.
- Tim McCrink did press work and interviews regarding simulated earthquakes.

• **Office of Mine Reclamation Report (Pompy) [Information]**



Chief of OMR, Jim Pompy, reported on the following:

- OMR will be conducting a SMARA Overview workshop at the BLM Field Office in Redding on October 25-26.

**V. Chairman's Report (Garner) [Information]**

Chairman Garner reported on the following:

- The SMGB is planning a public participation workshop in Santa Clara county in the near future, to talk about several things, mainly to receive public comment on AB 3098 and other pertinent issues.

**VI. Executive Officer's Report (Testa) [Information]**

Executive Officer Testa reported on the following:

- The new regulation for the designation of mineral lands within the Bakersfield Production - Consumption Region was approved by the Office of Administrative Law (OAL) and will become effective on September 29, 2011. Three regulatory packages are in preparation: These pertain to the designation and termination of designation of certain sectors within the San Bernardino, Palm Springs Production-Consumption Regions. and San Gabriel Production-Consumption Region.
- On April 10, 2010, the SMGB adopted its findings of fact adopted at their March 11, 2010, regular business meeting, and granting vested rights to Western Aggregates for 3,927-acres located in the Yuba Goldfields in Yuba County. Following this determination, a new version of an amended reclamation plan for Western Aggregates, Yuba County, was recently received and currently undergoing review by SMGB and OMR staff. No substantive comments were evident upon review, and this matter will be forwarded to the SMS Committee for consideration of approval to be recommended to the whole SMGB, upon completion of the CEQA/environmental study. The solicitation process for selection of a CEQA consultant for this purpose has been completed, and SMGB staff is prepared to select a contractor.
- A revised slope stability analysis for the Super Creek Quarry, City of Desert of Hot Springs, was received in mid-February – a preliminary review has been completed by OMR and SMGB staff, with such comments forwarded to the operator. A meeting with the operator and his representatives is being scheduled.
- Will Arcand, Senior Engineering Geologist with the SMGB, and Mr. Pompy with OMR, received the second Chinese delegation from the China University of Mining and Technology, and talked about mineral conservation and SMARA. The delegation was part of the United States – China Exchange Council.
- The travel and meeting schedule of the Executive Officer, and a ranking of priorities discussed.

**VII. Ex-Parte Communication Disclosure [Information]**

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member Wyatt indicated that he recently spoke at the San Diego Chapter of CalCIMA.
- Member Baca mentioned discussion and status of activities by the SMGB's Policy and Legislation Committee pertaining to proposed AB 3098 regulations at the CalCIMA Annual Education conference held earlier this week.



**VIII. Good of the Meeting [Information]**

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

No Good of the Meeting information was provided.

**IX. Consent Items [Action]**

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, June 9, 2011, Regular Business Meeting.

Board Member Tepel moved to approve the minutes. Board Member Lane seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, September 8, 2011, Regular Business Meeting.

Board Member Tepel moved to approve the minutes. Board Member Lane seconded and the motion carried with a unanimous voice vote.

**X. Continued Business [Action]**

[These business items have been continued from a previous meeting/hearing.]

3. **Public Hearing:** Review of the Order of Administrative Penalties Assessed to Three Surface Mining Operations Pursuant to Public Resources Code Section 2774.2 and Title 14, California Code of Regulations, Section 3900, et seq.

- Public Hearing Case No. AP #91-14-0018-09-AR:  
Ash Meadows Plant (CA Mine ID #91-14-0018), Inyo County

Rescinded

- Public Hearing Case No. AP #91-18-0047-09-AR:  
Pozzolan Hill Pit (CA Mine ID #91-18-0047), Lassen County
- Public Hearing Case No. AP #91-18-0049-09-AR: Long Valley Mine (CA Mine ID #91-18-0049), Lassen County

Executive Officer stated that two Administrative Penalty Appeals were to be heard pursuant to PRC Section 2774.1(c) for failure to submit a report to the Department of Conservation as required by PRC Section 2207.



**Public Hearing Case No. AP #91-18-0047-09-AR:** Pozzolan Hill Pit (CA Mine ID #91-18-0047), Lassen County, Larry Campbell (Agent), North American Technical Trading Company (Operator), assessed pursuant to PRC Section 2774.1(c) for failure to submit a 2009 Mining Operation Annual Report to the Department of Conservation as required by PRC Section 2207.

Board Member Baca moved to continue the hearing on the Administrative Penalty for the Pozzolan Hill Pit until OMR has the opportunity to send the LART team to Lassen County. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

**Public Hearing Case No. AP #91-18-0049-09-AR:** Long Valley Mine (CA Mine ID #91-18-0049), Lassen County, Larry Campbell (Agent), North American Technical Trading Company (Operator), assessed pursuant to PRC Section 2774.1(c) for failure to submit a 2009 Mining Operation Annual Report to the Department of Conservation as required by PRC Section 2207.

Board Member Baca moved to uphold the Administrative Penalty for the Long Valley Mine, but modify the administrative penalty for the amount of \$1,000. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

#### **XI. New Business [Action]**

4. **Public Hearing:** Consideration of an Order to Comply Issued by the Department of Conservation to the Goose Club Farms (CA Mine ID #91-51-00XX), Sacramento Valley Sand Inc. (Operator), Dane Lowry (Agent), County of Sutter, for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Executive Officer Testa stated that on August 19, 2011, the Director of the Department of Conservation, Office of Mine Reclamation (OMR), issued an Order to Comply (Case No. 51-7000-01) to Goose Club Farms North (CA Mine ID #91-51-00XX), Sacramento Valley Sand, Inc. (Operator). The Notice and Order addresses the operator's alleged violations of SMARA, specifically PRC Section 2770 et seq. An Order issued by the Director is subject to an automatic hearing (appeal) before the SMGB prior the order becoming effective pursuant to PRC Section 2774.1[b]. The SMGB is considering whether the Director had sufficient evidence to support the order at the time it was issued. If such evidence supports issuance of the Order and any effective date in the order, the Order shall be upheld. The SMGB is considering upholding, amending, or rejecting the Order.

- Jennifer Whipple, Attorney with Stern, Van Vleck & McCarron, LLP., and legal counsel for the operator, Dane Lowry, presented on behalf of the operator.
- Stanley Cleveland, County of Sutter Supervisor, District 2, and Leanna Mueller also with the County spoke on behalf and in support of the operator.
- Steve Frank, owner of Sacramento Valley Sand, also commented

Board Member Baca moved to continue the hearing. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.



5. **Public Hearing:** Consideration of an Order to Comply Issued by the Department of Conservation to the McLaughlin Mine (CA Mine ID #91-28-0003), Karl Burke (Agent), Homestake Mining Company (Operator), Counties of Lake and Napa, for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Board Member Baca moved to continue the hearing. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

6. **Public Hearing:** Consideration of an Order to Comply Issued by the Department of Conservation to the Red Ink Maid Mine, Placer County, (CA ID #91-31-0020), Mr. Richard Sykora (Owner and Operator), for Failure to Correct Violations Pursuant to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Deferred.

7. Imposition of an Administrative Penalty (AP #91-58-0015-09-AR) to the Blue Point Clark Mine (CA Mine ID #91-58-0015), Blue Point Partners, LLC (Operator), Brian Bisnett (Agent), County of Yuba.

Deferred.

8. Imposition of an Administrative Penalty (AP #91-58-0021-09-AR) to the Blue Point Mine (CA Mine ID #91-58-0023), Blue Point Partners, LLC (Operator), Brian Bisnett (Agent), County of Yuba.

Deferred.

## **XII. Special Reports and Department Presentations [Possible Action]**

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

9. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Lake.

Board Member Baca moved to continue this matter. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

10. Office of Mine Reclamation, Lead Agency Review Team (LART) Report on the County of Merced.

Board Member Baca moved to continue this matter. Board Member Lane seconded and the motion carried with a unanimous voice vote.

11. Inspection reports pursuant to PRC Section 2774(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:

- a. Bear Creek Quarry (CA Mine ID# 91-09-0001), County of El Dorado





- b. Timm Mine (CA Mine ID# 91-09-0006), County of El Dorado
- c. Somerset Sand Mine (CA Mine ID #91-09-0009), County of El Dorado
- d. Marin Quarry (CA Mine ID# 91-09-0015), County of El Dorado

Will Arcand, SMGB Senior Engineering Geologist, presented a summary of the inspection report.

Board Member Tepel moved to accept the inspection report. Board Member Baca seconded and the motion carried with a unanimous voice vote.

- e. Blue Point Mine (CA Mine ID #91-58-0015), County of Yuba

Deferred

- f. Blue Point Clark Quarry (CA Mine ID #91-58-0021), County of Yuba

Deferred

### **XIII. SMGB Committee Reports [Information and Possible Action]**

- Geohazards Committee
  - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

### **XIV. Continuing Business [Information]**

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

### **XV. New Business [Information]**

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

### **XVI. Executive Session (Closed to the Public) [Possible Action]**

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
- d). A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.



- e). William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- f). North Continent Land and Timber, Inc. vs. SMGB, Department of Conservation, Office of Mine Reclamation, County of Butte Board of Supervisors, Case No. 34-2010-800000542, Sacramento County Superior Court.
- g). Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
- h). An un-named case where there is potentially significant exposure to litigation against the SMGB.

**Re-open Regular Business Session, Announce Results of Executive Session**

Deputy Attorney Rick Thalhammer announced that the SMGB met in Executive session and authorized the attorney general to take specific steps re: Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.

**XVII. Announcements of Future Meetings**

November 10, 2011, was announced as the next meeting, and Lake Elsinore, CA, as the location.

**XVIII. Adjournment**

The meeting was adjourned at 3:10 P.M.

**APPROVED**

---

Erin Garner, Chairman

---

Stephen M. Testa, Executive Officer

